UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF ILLINOIS

EAST ST. LOUIS DIVISION

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 YOLANDA JACKSON, as Administrator   )
of the Estate of KEVIN CURTIS,   )
#Y22898,   )
)
 Plaintiff,   )
)
          vs.   )No. 3:20-cv-00900-DWD
)
 WEXFORD HEALTH SOURCES, INC., EVA   )
LEVEN, MOHAMMED SIDDIQUI, GAIL WALLS,)
NICKOLAS MITCHELL, CHARLES FRERKING,)
JEREMY FRERICH, and ANDREW BENNETT,   )
)
Defendants.   )
_____

Deposition Upon Oral Examination Of

RYAN HERRINGTON

Volume II

_____

7:40 a.m.

June 21, 2023

415 Capitol Way North

Olympia, Washington

REPORTED BY: Yvonne A. Gillette, RPR, CCR No. 2129.

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 1    A         No.

 2    Q         Did you review any Wexford written

 3    guidelines or policies that you found to be

 4    inadequate?

 5    A         I did not cite to any policies.

 6    Q         Okay.  I want to shift gears and talk about

 7    your methodology.  And --

 8    A         Maybe 30 seconds, please.

 9    Q         Yes.

10              THE WITNESS:  What time is it?

11              MS. GRADY:  It's 11:11.

12    A         Okay.  Go ahead.

13    Q         Did you perform a sampling of these patients

14    in order to conduct your study?

15              MS. GRADY:  Object to form.  Vague.

16    A         No.

17    Q         Okay.  Did you determine what patients'

18    records you were going to review?

19    A         No.

20    Q         Okay.  Do you understand the importance of

21    sampling a given population to ensure that the sample

22    group is a true representation of the population

23    without error?

24              MS. GRADY:  Objection.  Form.  Incomplete

25    hypothetical.  You can answer.
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1   A   Yes.

2   Q   Did you create a methodology for unbiased

3   sampling of the IDOC population?

4   MS. GRADY: Same objections.

5   A   No.

6   Q   Do you know what methodology, if any, was

7   used in obtaining the sampling of the patients that

8   you reviewed?

9   A   I don't know. I wasn't privy to the

10   processes of procurement of records.

11   Q   Okay. Sampling errors caused by sampling

12   design can create selection bias; is that true?

13   MS. GRADY: Objection. Form. Vague.

14   Incomplete hypothetical.

15   A   In some circumstances, yes.

16   Q   To ensure reliability and valid inferences

17   from a given sample, probability sampling techniques

18   should be used to obtain unbiased results. Do you

19   agree with that?

20   MS. GRADY: Same objection. Calls for

21   speculation. You can answer.

22   A   Can you ask that again?

23   Q   Yeah. To ensure reliable and valid

24   inferences from a sample, probability sampling

25   techniques should be used to obtain unbiased results.

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1   Do you agree?

2   **A   Let me think for just a second. I'm**

3   **thinking because these are all sentinel events. This**

4   **series of twelve cases are not like randomly taken**

5   **from the IDOC population. These are people that had**

6   **adverse health effects already. So they're -- they're**

7   **what we call sentinel events. So the term we use is**

8   **these are patients that we know have had an adverse**

9   **outcome. So what we're looking for is what exposures**

10   **they had, and that includes lack of proper medical**

11   **care, what exposures they had. And so you -- now that**

12   **I've said that to myself, can you ask your question**

13   **one more time?**

14   Q   Yeah. To ensure reliable and valid

15   inferences from a sample, probability sampling

16   techniques should be used to obtain unbiased results.

17   Do you agree?

18   MS. GRADY: Same objections. Go ahead.

19   **A   I do, except I think what you're getting at**

20   **is random sampling. And this is not random sampling.**

21   Q   So --

22   MS. GRADY: Hold on. He's going to finish

23   his answer.

24   MS. KINKADE: I'm not --

25   MS. GRADY: Absolutely not. He's going to

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1   finish his answer. Please continue, Dr. Herrington.

2   A   What I was trying to explain is -- and this

3   is all probability related too as well. But I think

4   what you're reading, the context of what you're

5   reading is when you're doing a random -- like a random

6   sampling of a population. What this review is is not

7   a random sampling. This is a sentinel event review.

8   So I have to answer your questions the way

9   you're posing them, but I just want to make sure that

10   the context of this review is not -- it's not a random

11   sampling of Wexford patients. It can't be because

12   these are patients that have already suffered an

13   adverse event.

14   What we could do is, if we could, get

15   records for every single death that occurred under

16   Wexford in Illinois over a certain period of time.

17   And depending on how large that population is, we

18   could extract from that a random sampling. But we

19   can't do that in this setting because this is not a

20   random sampling. These are sentinel events. It's a

21   little bit different process.

22   Q   So a sentinel event, is that -- are you

23   meaning that the same as adverse event?

24   A   Well, adverse events aren't necessarily

25   sentinel events. I mean, people get infections after

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1 operations all the time. Those are all adverse

2 events, but they're not necessarily sentinel events

3 because we expect a certain percentage of people to

4 get postoperative infections.

5 Q   Okay.

6 A   What we don't expect is for people to die

7 from mismanagement of Coumadin. We don't expect

8 people to die from failure to recognize people that

9 are dehydrated. We don't expect people to die from

10 progressive cirrhosis. That's not -- that's not

11 timely referred to a transplant center. We don't

12 expect people to die from delays to local hospitals

13 and emergency departments when their medical condition

14 is so amazingly, just amazingly irresponsibly

15 unstable.

16   Some of these cases were so frankly poorly

17 managed that I had to go outside and get a breath of

18 fresh air. I was struck by some of the just careless

19 disregard for a patient's prospect of remaining alive

20 that I was just -- I had to go outside for a couple of

21 these. It was so poor.

22 Q   I'm going to object to nonresponsive. If

23 you want to give those opinions, we can talk about

24 additional time.

25   MS. GRADY: Absolutely not. We're not

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 1   talking about additional time.

 2   Q          I just want to make sure to answer the

 3   questions that are before us.

 4              MS. GRADY:  I just want to state for the

 5   record, because now it appears to be necessary, there

 6   was an agreement at the end of the deposition

 7   yesterday that there would be no further time beyond

 8   noon and no requests for further time.  So you have

 9   had nearly twelve hours with this doctor.  That is

10   more than a sufficient amount of time.

11              There's not going to be a request for

12   additional time, and Wexford has expressly agreed to

13   that.  So there's not going to be any further requests

14   to that effect.

15              MS. ARMSTRONG:  I'm going to join that

16   objection as nonresponsive.

17   Q          Okay.  So we're dealing with twelve cases

18   where an individual died, correct?

19   A          Correct.

20   Q          We know all the individuals who died within

21   the Illinois Department of Corrections since 2000 to

22   2020; is that correct?

23              MS. GRADY:  Objection.  Form.

24   A          I don't know.

25   Q          Have you not reviewed the Illinois
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1   Department of Corrections Adult Institute Inmate Death

2   Calendar for every given year within the Department of

3   Corrections?

4   A   I've tried to look at that, but I couldn't

5   understand how to get -- to get meaningful data. So I

6   wasn't able to get very far with that, but I actually

7   did try to look that up.

8   Q   So you saw a spreadsheet that lists the

9   number of patients that died every year, right?

10 A   I remember seeing spreadsheets, but I didn't

11 understand how to like technically look at that data.

12 And I -- I can just tell you, I tried to look at that.

13 And I -- I didn't -- I don't feel like I got very far

14 with it. But if that data is prepared for me in a way

15 that I can understand it, I would be happy to look at

16 it.

17 Q   The question is, the spreadsheet listed the

18 number of deaths per year, correct?

19 A   I don't remember.

20 Q   Okay. It lists the institutions in which

21 the individuals were incarcerated?

22 A   I don't -- I just don't remember.

23 Q   And it listed the date of deaths of the

24 individuals?

25 A   I'm sorry. I just don't remember. I can

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1   only tell you I tried to look at that.

2   Q   If your answer is "I don't know", that's

3   fine. It listed the cause of death for each of the

4   individuals as well?

5   MS. GRADY: Objection. Form. Misstates the

6   records.

7   **A   So I don't -- I don't know. But what I**

8   **would also say is some of these patients didn't have**

9   **autopsies. Some of these patients I had to learn for**

10 **myself what the cause of death was. One of the**

11 **things, you know, if I were to look at that**

12 **spreadsheet, I would to have some sort of assurance**

13 **that that spreadsheet itself is actually accurate.**

14 Q   Since we have a list of all the names of

15 individuals who died every single year in the

16 Department of Corrections, there could be a random

17 sampling of the deaths that have occurred, fair?

18   MS. GRADY: Objection. Incomplete

19 hypothetical.

20 **A   That could happen.**

21 Q   And I wasn't only referring to a random

22 sampling before. My question -- there are actually

23 four different types of probability sampling that can

24 occur. Random sampling, systematic sampling,

25 stratified sampling, and cluster sampling, right?

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 1   A          That's correct.

 2   Q          And none of those were done here?

 3              MS. GRADY:  Object to form.  Incomplete

 4   hypothetical.  You can answer.

 5   A          Well, we have a population of twelve.  But

 6   my point is that these are all -- these are all

 7   patients who have already had an event.  And I also --

 8   I also know that -- well, I mean, I'm not part of any

 9   efforts to obtain, you know, an entire population.  I

10   can only tell you that I'd be happy to do that if I

11   were able to.  But what I have here is twelve cases.

12   These are -- these are cases where the adequacy is

13   not -- not a hard decision to make.

14   Q          Doctor, I'm asking about sampling methods.

15              MS. GRADY:  Hold on.  We're going to let him

16   finish his answer.

17              MS. KINKADE:  I --

18              MS. GRADY:  Absolutely not.  We are not

19   going to be interrupting the witness.  I'm sorry if

20   you have used your time in a way that leads at 1:22

21   with 18 minutes left that you --

22              MS. KINKADE:  It's not about my time.  It's

23   about responding to the question.

24              MS. GRADY:  Absolutely not.  You do not

25   interrupt the witness.  That is rule number one in
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1   these depositions, and you have enforced that with me.

2   MS. KINKADE: I'm going to call the Court if

3   you don't stop interrupting me.

4   MS. GRADY: We're going to allow the witness

5   to answer the question. Please continue,

6   Dr. Herrington.

7   **A   What was the question?**

8   Q   There are four --

9   MS. GRADY: Can you read it back, please?

10   MS. KINKADE: I can say it.

11   Q   (Ms. Kinkade continuing.) There are four

12   probability sampling methods, random sampling,

13   systematic sampling, stratified sampling, and cluster

14   sampling. Were any of those methods used in sampling

15   the individuals in this case?

16   **A   This is not a random sampling. This would**

17   **not be a stratified sample. This would not be a**

18   **cluster sample. I don't know -- I don't remember what**

19   **systemic sampling is. So this is a -- this is twelve**

20   **cases. I don't -- I can't speak -- I don't remember**

21   **what systemic sampling is.**

22   Q   Okay. That's fine. Sampling size is

23   important in order to be able to determine whether the

24   sample can provide any insight into a relationship

25   that would exist more generally in the environment; is

1   that true?

2   MS. GRADY: Object to form. Vague.

3   Incomplete hypothetical. You can answer.

4   **A   So you're asking about sample size. That is**

5   **important when you're drawing inferences between**

6   **variables. In this case, the variable we're looking**

7   **at is did the patient live, or did the patient die?**

8   **And in all of these cases we looked at, the patient**

9   **died. So it's -- it's a number twelve. They're all**

10   **sentinel events, but the -- it's still a valid tool to**

11   **make generalizations and opinions because the mistakes**

12   **that were made were so outrageous.**

13   **I think -- I understand what you're getting**

14   **at is you're trying to look into the validity of my**

15   **work here. And I understand that. I think if the**

16   **decision of inadequate versus adequate -- I think if**

17   **the difference was smaller and more subtle, then you**

18   **would need the methodology that you're talking about.**

19   **Large sample size, randomness. But here, the outcomes**

20   **were so bad, and the decision making was so**

21   **breathtakingly poor that these are still valid**

22   **conclusions and opinions to make based on a number of**

23   **twelve.**

24   Q   Did you pick the number twelve for patients

25   that you reviewed?

1   A   No.

2   Q   Did you perform any mathematical equation to

3   determine what number of death reviews should be

4   conducted in order to determine a statistical power

5   analysis that can generalize your findings into the

6   community?

7   MS. GRADY: Objection. Form. Incomplete

8   hypothetical. You can answer.

9   A   No.

10   Q   Okay. Did you perform a root cause analysis

11   of -- in any of these cases?

12   MS. GRADY: Same objections.

13   **A   Root cause analysis, I think, for a lot of**

14   **these would be a very good practice. And I don't see**

15   **any evidence that Wexford did root cause analysis.**

16   **And that speaks to one of my conclusions, which is**

17   **on -- bear with me.**

18   Q   Just to remind you, the question was whether

19   you performed root cause analysis in any of these.

20   **A   Well, the answer is sort of -- I mean, root**

21   **causes are what is fundamentally wrong with this**

22   **system, which is why I have entitled at the bottom of**

23   **page 48 is: Why did these deaths occur in the manner**

24   **in which they occurred? That speaks to a methodology**

25   **that's consistent with RCA or root cause analysis.**

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1   But I talked about clinical supervision that

2   I thought was insufficient. And I talked about a lot

3   of time spent in collegial review. I talked about

4   continuous quality improvement and ineffective

5   mortality review. That's -- that would be part of a

6   root cause analysis. Not sending patients to the

7   hospital and not hiring practitioners with, you know,

8   proper credentials.

9   Q   Did you review the credentials of any of the

10   practitioners that you reviewed?

11   A   I used a piece of the Lippert report to

12   speak to that. I mean, I -- I can't do my own

13   investigation for that. I pulled it out of the

14   Lippert report. You know, if this is incorrect, and

15   you have documentation otherwise, I'd be happy to

16   consider that. But I think that the -- I think the

17   doctor managing the Coumadin case, I think he was like

18   a radiologist.

19   Q   What about the credentialing of

20   Dr. Siddiqui, Dr. Floreani, Dr. Leven,

21   Mr. Moldenhauer, Ms. Zimmer? Did you find any

22   inadequacies in their credentialing?

23   MS. GRADY: Objection. Compound. You can

24   answer.

25   A   I don't recall that I really got into that.